

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Terminating the Construction Contract with ChuskaSahara for the Dialysis Center)

RESOLUTION NO. 05-523

- 1 **WHEREAS, on August 19, 2005, after lengthy negotiations and discussions, the Tohono O'odham**
2 **Nation (the "Nation") did enter into a Guaranteed Maximum Price Contract and**
3 **General Conditions Agreement (the "Agreement") with ChuskaSahara (the**
4 **"Contractor") to construct the Nation's Dialysis Center; and**
- 5 **WHEREAS, one of the terms of that Agreement required that the Contractor furnish performance**
6 **and labor and material payment bonds covering performance of the Agreement and**
7 **payment of all obligations arising under the Agreement; and**
- 8 **WHEREAS, on September 8, 2005, the Contractor did contact the Nation and inform the Nation**
9 **that, due to an unpaid balance from a previous project, the Contractor's Bonding and**
10 **Insurance Company was no longer willing to issue the Contractor the bonds required**
11 **by the Agreement; and**
- 12 **WHEREAS, on September 8, 2005, the Contractor did personally appear to explain the Insurance**
13 **Company's refusal to issue the required bonds and did present three options to**
14 **provide the Nation in lieu of fulfilling the contract requirement for bonding; and**
- 15 **WHEREAS, the Nation does not find that any combination of the options presented by the**
16 **Contractor provide sufficient protection for the Nation's investment in the Dialysis**
17 **Center; and**
- 18 **WHEREAS, Article 17 of the Agreement permits the Nation to terminate the Agreement if the**
19 **Contractor is in breach of any provision of the Contract; and**
- 20 **WHEREAS, the Nation considered the Contractor's inability to provide the necessary bonds a**
21 **material breach of the Agreement.**
- 22 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council does hereby**
23 **approve termination of the Agreement with ChuskaSahara to construct the Nation's**
24 **Dialysis Center.**
- 25 **BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council does authorize the**
26 **Chairwoman of the Tohono O'odham Nation to issue notice to ChuskaSahara that the**
27 **Nation is terminating the Agreement on the basis of Chuska's material breach.**

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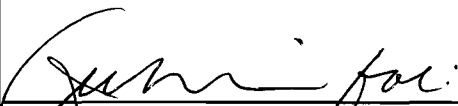
The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 22ND Day of SEPTEMBER, 2005 at a meeting at which a quorum was present with a vote of 2,440.80 FOR; -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Section 1 (f) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Evelyn B. Juan Manuel, Legislative Chairwoman

23rd day of September, 2005

ATTEST:


Lucille Lopez, Acting Legislative Secretary

22ND day of September, 2005.

Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 23rd day of September, 2005 at 8:06 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon her approval or upon her failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

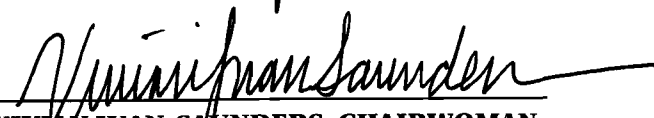

Evelyn B. Juan Manuel, Legislative Chairwoman

APPROVED

on the 23 day of September, 2005

DISAPPROVED

at 2:55 o'clock, P.M.


VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 23 day of

September, 2005, at 2:45 o'clock, p.M.

Belphe Francis for
Lucille Lopez, Acting Legislative Secretary

ACTION: TERMINATING THE CONSTRUCTION CONTRACT WITH CHUSKASAHARA FOR THE DIALYSIS CENTER
MOVED: VICE CHAIRMAN VERLON JOSE **SECOND: COUNCILWOMAN SANDRA ORTEGA**
DATE: SEPTEMBER 22, 2005

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	1. FRANCES MIGUEL ()	155.40	X			
	2. FRANCES G. ANTONE (Lucilda J. Valenzuela (Norris))	155.40	X			
CHUKUT KUK 258.7	1. ETHEL GARCIA ()	129.35	X			
	2. VERLON M. JOSE (David Garcia)	129.35	X			
GU ACHI 221.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	110.80	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	110.80	X			
GU VO 193.1	1. RAYMOND VICTOR ()	96.55	X			
	2. MICHAEL FLORES (Grace Manuel)	96.55	X			
HICKIWAN 167.4	1. DELMA GARCIA (Mary E. Sam)	83.70	X			X
	2. SANDRA ORTEGA ()	83.70	X			
PISINEMO 171.8	1. BARBARA SALVICIO ()	85.90	X			
	2. GERALD FAYUANT ()	85.90	X			
SAN LUCY 169.0	1. JOHN W. LAWSON, SR. ()	84.50	X			
	2. GLORIA RAMIREZ ()	84.50	X			
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90	X			
	2. OLIVIA VILLEGAS-LISTON ()	96.90	X			
SCHUK TOAK 146.9	1. FRANCES B. CONDE ()	73.45	X			
	2. PHYLLIS JUAN ()	73.45	X			
SELLS 421.0	1. DENNIS E. JOSE ()	210.50	X			
	2. EVELYN B. JUAN MANUEL ()	210.50	X			
SIF OIDAK 186.7	1. WAVALENE SAUNDERS (Isidro Lopez)	93.35	X			X
	2. DARLENE ANDREW (Rita Martinez)	93.35	X			
TOTAL		2,440.80	2,440.80	-0-	-0-	[02]

**PASSED VOTES